

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. P-844
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**ORDER GRANTING REQUEST TO ISSUE PERMIT AND APPROVING
ADDENDUM TO LAND RESTORATION PLAN**

(Issued December 13, 2002)

On December 4, 2002, the Utilities Board (Board) issued an order in Docket No. P-844 affirming and modifying the proposed decision of the presiding officer. The order grants a permit to MidAmerican Energy Company (MidAmerican) to construct a natural gas pipeline that will originate at a connection point on Northern Natural Gas Company's interstate pipeline east of Ankeny, Iowa, and terminate at MidAmerican's Pleasant Hill Energy Center and proposed Greater Des Moines Energy Center. In the order, the Board required MidAmerican to file an addendum to the land restoration plan that provided details of the procedures to be utilized for construction during severely cold weather. On December 5, 2002, MidAmerican filed the addendum.

On December 10, 2002, the Board issued an order requesting additional information concerning the winter construction. MidAmerican filed the additional information on December 11, 2002. The Board has reviewed the additional information filed on December 5 and 11, 2002, and finds that it adequately describes

the equipment and methods MidAmerican will use for construction during severely cold weather. The two filings will be made a part of the land restoration plan.

On December 3, 2002, MidAmerican filed a "Request for Issuance of Pipeline Permit" with the Utilities Board (Board) requesting that the permit be issued concurrently with the Board's order affirming the granting of the permit. The Board on December 4, 2002, issued an order allowing responses to the request and shortening the time to respond. On December 9, 2002, the Silver Land Company, L.L.P. (the Silvers), filed an objection to the issuing of the permit. The Silvers indicate they will be taking further legal action concerning the granting of the permit.

Traditionally, the Board has not issued the permit until after the time for filing applications for rehearing, which under Iowa Code § 476.12 is 20 days after the date the final order is issued. However, that statute does not explicitly require the Board to wait the 20 days. By not issuing the permit until after the 20 days for filing for rehearing, the Board in effect is staying its final order. The Board will decide whether to issue the permit immediately based upon the four criteria for granting a stay in Iowa Code § 17A.19(5)"c."

The criteria and analysis are set out below.

1. The extent to which the applicant is likely to prevail when the Board finally disposes of the matter.

The Board finds that it is extremely unlikely the Silvers will prevail on any petition for rehearing. The presiding officer issued the proposed decision on September 25, 2002, after conducting a hearing and reviewing an extensive amount of evidence concerning the pipeline. The Silvers appealed the proposed decision on

the issue of the choice of the Direct Route rather than the Secondary Route. The Direct Route crosses the Silvers' farm.

The Silvers filed a brief in the appeal and on December 4, 2002, the Board issued a decision affirming the proposed decision. The Board provided an additional analysis of the evidence supporting the choice of the Direct Route versus the Secondary Route. In the analysis the Board found that the evidence supported the selection of the Direct Route based upon the five criteria used by MidAmerican. The Board found there was no advantage to the Secondary Route and it was longer and cost more.

The evidence concerning this issue has been addressed twice, once by the presiding officer, and once by the Board, and in both instances the evidence was found to support the Direct Route. The Board finds that the Silvers have had ample opportunity to challenge the Direct Route and it is unlikely that they will prevail on rehearing.

2. The extent to which the applicant will suffer irreparable injury if relief is not granted.

The Board finds that the Silvers will not sustain irreparable injury if the permit is issued. Iowa Code § 479.29 provides the protection of Iowa agricultural land found to be necessary by the legislature. The construction of the pipeline is subject to these statutory provisions, the Board's rules, and the land restoration plan filed by MidAmerican. MidAmerican is required to preserve topsoil and return the land as closely as possible to its preconstruction condition. Compliance with the plan and rules should prevent irreparable harm from occurring.

3. The extent to which the grant of relief to the applicant will substantially harm other parties to the proceedings.

Granting of the relief to the Silvers may delay completion of the pipeline in time for the Greater Des Moines Energy Center to be operational by next summer. This will cause harm to MidAmerican and potentially to all MidAmerican ratepayers if peak demand exceeds MidAmerican's current capacity next summer.

4. The extent to which the public interest relied on by the agency is sufficient to justify the agency's action in the circumstances.

The Board in the December 4, 2002, order made a specific finding that the public interest supported the construction of the pipeline along the Direct Route. This finding of the public interest and the finding that the pipeline will promote the public convenience and necessity provides sufficient support for the Board's decision to grant the permit before the time for applications for rehearing has elapsed.

Based upon the analysis of the four criteria, the Board will issue the permit for the construction of the natural gas pipeline as requested by MidAmerican. The Board is satisfied with the procedures in the addenda to the land restoration plan for preserving agricultural land during severely cold weather.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The request for issuance of the permit to construct the natural gas pipeline that is the subject of this proceeding filed by MidAmerican Energy Company is granted. The permit will be issued concurrently with this order.

2. The information filed by MidAmerican Energy Company on December 5 and 11, 2002, describing the equipment and methods for construction of the pipeline during severely cold weather is made a part of the land restoration plan.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 13th day of December, 2002